

# Subrogation

## Construction E-Mod Impact

### TRADITIONAL

In the case of accidents where employee was injured on the job through no fault of their own or employer (typically a motor vehicle accident) . The employers comp carrier pays first traditionally while fault is determined through accident investigation. Once liability is determined the employers comp carrier can subrogate to recover accident medical and associated costs . This money is credited back to the employers account and the loss reserves are reduced accordingly.

When E-mod rates are calculated the lofty “total incurred” is not present and a un-skewed E-mod is developed.

# Construction E-Mod Impact

- Subrogation Not Allowed

When subrogation is not allowed it creates gap in the system that is intended to be self-leveling with using E-Mod's, the mechanism to recover against monies paid for compensation.

The employee medical and associated costs are covered in a non-employer caused accident but monies are not recovered which is how system was setup many years ago. This results in the employer having a claim with "reserves and incurred" costs very high which adversely affects the e-mod calculation for the next three years.

As you will see in this real example an otherwise safe company has their E-mod rise above one which is the tipping point for not being considered for work. It is viewed that you have an unsafe operation if your E-mod is above one.

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- 2010 employee involved in MVA not their fault, hospitalized and medical paid within first year exceeded \$750k with claim reserved for over one million dollars. E-mod at .71
- 2011, E-mod jumps to .86 adding 15 basis points to any premium paid.
- 2012, E-mod now at .95, 24 basis points added to every \$100 paid in work comp premium.

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- 2013, E-mod now over one at 1.02, 31 basis points over 2010 number but more critical is the fact that they will not be considered for work by major businesses who bring work into the state.
- 2014, E-mod should level off if they have no other claims. *It should be noted they have had NO other Claims to cause these changes.*
- This companies accident and E-mod rate were low prior to this. If only the auto carrier could have re-paid the medical costs incurred we would not have a situation were an employer in these fragile times is placed at risk of going out of business

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There are some that say the premium has been paid and there is no impact to the employer. This is clearly not true and has been overlooked on the premise the employee is not “Made Whole”. I say what about the business owner who pays for an accident that was not his fault to a point of possibly going out of business when there is a system and coverage designed to take care of it.

Self-Insureds are also assessed based on medical costs

Where is the equal protection under the law?

“Wage-loss benefits are not intended to make an injured worker whole but are intended to provide assistance to a worker at a reasonable cost to the employer.” 39-71-105, (1)